

CIVIL CASE INFORMATION STATEMENT
CIVIL CASES

FILED

Copy

2015 MAY 13 PM 2:08

In the Circuit Court, Kanawha County, West Virginia

CATHY S. GATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

I. CASE STYLE:

Plaintiff,

Case # 15C-905

STATE OF WEST VIRGINIA ex rel.
PATRICK MORRISEY,
ATTORNEY GENERAL,

Judge Kaufman

v.

Defendants.

Days to
Answer

Type of Service

SIMPLE RECOVERY SOLUTIONS, LLC,
TODD WEST, AND ALEXANDER SIMAO

30

Sec. of State

Original and ___ copies of complaint furnished herewith.

(Continued On Next Page)

PLAINTIFF: STATE OF WEST VIRGINIA ex rel. PATRICK MORRISEY, ATTORNEY GENERAL DEFENDANTS: SIMPLE RECOVERY SOLUTIONS, LLC, TODD WEST, AND ALEXANDER SIMAO	CASE NUMBER:
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II. TYPE OF CASE:

TORTS	OTHER CIVIL

Asbestos	Adoption	Appeal from Magistrate Court
Professional Malpractice	Contract	Petition for Modification of Magistrate Sentence
Personal Injury	Real Property	Miscellaneous Civil
Product Liability	Mental Health	X Other
Other Tort	Appeal of Administrative Agency	

III. JURY DEMAND: Yes No X

CASE WILL BE READY FOR TRIAL BY (MONTH/YEAR): N/A

IV. DO YOU OR ANY OF YOUR CLIENTS OR WITNESSES IN THIS CASE REQUIRE SPECIAL ACCOMMODATIONS DUE TO A DISABILITY OR AGE?

YES NO X

IF YES, PLEASE SPECIFY:

Wheelchair accessible hearing room and other facilities
Interpreter or other auxiliary aid for the hearing impaired
Reader or other auxiliary aid for the visually impaired
Spokesperson or other auxiliary aid for the speech impaired
Other: _____

Attorney Name: Douglas L. Davis, Assistant Attorney General
(State Bar No. 5502)
Firm: State of West Virginia, Attorney General's Office
Address: Post Office Box 1789, Charleston, WV 25326-1789
Telephone: (304)558-8986

Representing:

X Plaintiff Defendant

Cross-Complainant Cross-Defendant

Dated: May 13, 2015



Signature

Pro Se

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

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Cathy S. Gatson, Clerk
KANAWHA COUNTY CIRCUIT COURT

STATE OF WEST VIRGINIA ex rel.
PATRICK MORRISEY,
ATTORNEY GENERAL,

Plaintiff,

v.

Civ. Action No. 15-C-905

Kaufman

SIMPLE RECOVERY SOLUTIONS, LLC,
TODD WEST, AND ALEXANDER SIMAO,

Defendants.

COMPLAINT AND PETITION FOR
PRELIMINARY AND PERMANENT INJUNCTION

This action is brought pursuant to the provisions of the West Virginia Consumer Credit and Protection Act, West Virginia Code § 46A-1-101, *et seq.*, which authorizes the Attorney General of West Virginia to file enforcement actions. The State of West Virginia, by and through its duly elected Attorney General, Patrick Morrissey (hereinafter “the State”), the plaintiff in this matter, has reason to believe that the above-named Defendants have violated the Consumer Credit and Protection Act.

I.
PARTIES

1. The State, by and through the Attorney General, is authorized to bring this action pursuant to the Consumer Credit and Protection Act, W. Va. Code § 46A-1-101, *et seq.* (the “Act”).

2. Defendant, Simple Recovery Solutions, LLC (“SRS”), is a for-profit limited liability company organized under the laws of the State of Florida. SRS’s principal place of business and registered address is 150 N. Orange Avenue, Suite 416, Orlando, Florida 32801.

3. SRS registered to do business in West Virginia as a collection agency on August 25, 2014.

4. Todd West (“West”) is an individual residing in the state of Florida.

5. Alexander Simao (“Simao”) is an individual residing in the state of Florida.

6. Upon information and belief, SRS is owned by West and Simao.

7. West and Simao are members of SRS.

8. West is a managing member of SRS.

9. Simao is a managing member of SRS.

10. Upon information and belief, during all times relevant to this Complaint, West and Simao controlled the actions and activities of SRS.

11. Through their control of SRS, West and Simao have continuing and ongoing contacts with the State of West Virginia.

II.

JURISDICTION AND VENUE

12. This Court has jurisdiction to hear this matter pursuant to Article VIII, Section 6 of the West Virginia Constitution, W. Va. Code § 51-2-2, and W. Va. Code § 53-5-3.

13. Venue is proper in this Court pursuant to W. Va. Code § 46A-7-114 and W. Va. Code § 56-1-1(a)(6).

III.

FACTS COMMON TO ALL COUNTS

14. SRS began attempting to collect debts in West Virginia prior to August 25, 2014.

15. Beginning as early as August 5, 2014, the State began receiving complaints from West Virginia consumers complaining they had been contacted by Defendants regarding debt the consumers allegedly owed.

16. SRS responded to the consumer complaints generally advising the State that the company would put the accounts in "cease communication" status until the underlying debts could be verified.

17. The Attorney General's office commenced an investigation to determine if SRS was violating the Act.

18. After a preliminary investigation, the State learned that West and Simao were involved with the business operations of SRS.

19. After an informal information request, SRS provided the names and addresses of West Virginia consumers who allegedly owed debts on accounts the Defendants were trying to collect.

20. Defendants failed to respond to other informal information requests related to their business operations and the original creditors whose debts they were trying to collect.

21. SRS is a "debt collector" as defined by W. Va. Code § 46A-2-122(d).

22. SRS is a "collection agency" as defined by the West Virginia Collection Agency Act ("Collection Agency Act"), W. Va. Code § 47-16-2(b).

23. SRS's debt collection activities are subject to the provisions set forth in the Act, which is regulated by the Attorney General pursuant to W. Va. Code § 46A-7-101 *et seq.*

24. The Collection Agency Act requires companies that collect debts "originally due or asserted to be owed or due another" (emphasis added), to be licensed and bonded with the state tax department. *See* W. Va. Code § 47-16-2(b) and W. Va. Code § 47-16-4(16).

25. During the past eight months, the State has received numerous complaints alleging SRS engaged in repeated and willful violations of the Act in the collection of alleged debts from West Virginia consumers.

26. The complaints filed with the Attorney General by West Virginia consumers allege that SRS has engaged in unfair and deceptive debt collection practices.

IV.
FACTS SPECIFIC TO CONSUMERS

27. The State is informed and believes that Defendants are attempting, or have attempted, to collect debts from at least 125 West Virginia consumers.

28. Most of the complaints received by the State complain that SRS is attempting to collect a debt that is not owing.

29. SRS contacts consumers by telephone and by mail. A copy of one of SRS's mailings is attached hereto as Exhibit A.

30. Consumers complain that when they speak to an employee of SRS and ask what the debt is for, either SRS cannot identify who the original creditor is, or the employee gives a name to the consumer that the consumer does not recognize.

31. When SRS sends collection correspondence to consumers it discloses the name of a creditor.

32. None of the consumers contacting the State knew who the original creditor was even when it was disclosed on correspondence sent to them by SRS.

33. The original creditors of the alleged debts that SRS is trying to collect from West Virginia consumers include:

All In One Services

Servicing Solutions

Card Services

Card Services Debt Consolidation Group

Auto Comp

DKN Services

J & D Sun Services

34. No address is provided for any of the foregoing creditors on correspondence sent to West Virginia consumers.

35. Upon information and belief, each of the creditors identified in paragraph 33 of this Complaint purportedly was selling credit card interest rate reduction services to consumers several years ago.

36. Even if the creditors identified in paragraph 33 of this Complaint actually sold credit card interest rate reduction services, none of the West Virginia consumers received any interest rate reductions on their credit cards.

37. SRS has not been able to verify the legitimacy of the original debts alleged to be owing to the creditors identified in paragraph 33 of this Complaint.

38. SRS has not been able to determine, or refuses to disclose the principal, interest and other charges for the alleged debt it is attempting to collect with regard to the creditors identified in paragraph 33 of this Complaint.

39. West Virginia consumers have been confused by SRS's conduct as to whether they owe a debt.

40. Upon information and belief, SRS is attempting to collect its costs of collection.

41. SRS has tried to collect alleged debts from deceased consumers.

42. Even after being told that alleged debtors are deceased, SRS continues to telephone the surviving relatives.

43. SRS also tries to collect alleged debt from bankrupt debtors whose debts have been discharged through the United States bankruptcy court.

FIRST CAUSE OF ACTION
(Unfair or Deceptive Acts or Practices W. Va. Code § 46A-6-104)

44. The State reasserts the statements and allegations contained in paragraphs 1 through 43 as if each were set forth herein in its entirety.

45. SRS attempts to collect debts from West Virginia consumers that are not owing.

46. SRS attempts to collect debts from West Virginia consumers that it has not verified are legitimate and owing.

47. SRS represents to West Virginia consumers that it has the right to collect the alleged debts even though the debts are not legitimate, causing the likelihood of confusion or misunderstanding.

48. Under the Act, “Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.” W. Va. Code § 46A-6-104.

49. Collecting or attempting to collect a debt in West Virginia that is not owing or in an amount in excess of what is owing is an unfair or deceptive act or practice in violation of the Act. W. Va. Code § 46A-2-127(d), W. Va. Code § 46A-6-104.

50. Defendants’ collection activities in West Virginia have caused confusion and misunderstanding among consumers about the legitimacy of debts in violation of the Act. W. Va. Code § 46A-6-104 and W. Va. Code § 46A-6-102(7)(L).

SECOND CAUSE OF ACTION
(Collecting Without A License, W. Va. Code § 46A-6-104)

51. The State restates and realleges the allegations contained in paragraphs 1 through 50 as if each were set forth herein in its entirety.

52. Defendants began collection efforts in West Virginia before August 25, 2014.

53. Prior to August 25, 2014, SRS was not licensed as a collection agency in West Virginia.

54. West Virginia's Collection Agency statutes mandate that "License - No person, firm, corporation or association shall conduct within this State a collection agency without having first applied for and obtained a business franchise registration certificate. . . ." W. Va. Code § 47-16-4(a).

55. It is an unfair or deceptive act or practice to conduct business as a collection agency in West Virginia without first being registered and licensed in accordance with state law, in violation of the Act. W. Va. Code § 46A-6-104 and W. Va. Code § 47-16-5.

56. Defendants failed to disclose to West Virginia consumers that they were not authorized to conduct business in West Virginia prior to August 25, 2014, causing confusion and misunderstanding among West Virginia consumers in violation of the Act. W. Va. Code § 46A-6-104 and W. Va. Code § 46A-6-102(7)(L) and (M).

THIRD CAUSE OF ACTION
(Excess Charges, W. Va. Code §§ 46A-7-111)

57. The State restates and realleges the allegations contained in paragraphs 1 through 56 as if each were set forth herein in its entirety.

58. Defendants have made and collected excess charges from consumers in violation of W. Va. Code § 46A-7-111, by collecting money from consumers that was not owing.

59. Under the Act, “the attorney general may bring a civil action against a creditor for making or collecting charges in excess of those permitted by this chapter.” W. Va. Code § 46-7-111(1).

60. Defendants have refused to refund excess charges to affected consumers after being requested to do so.

61. Defendants engage in unfair or deceptive acts or practices by collecting money that is not owing in violation of W. Va. Code § 46A-7-111 and W. Va. Code § 46A-6-104.

**FOURTH CAUSE OF ACTION
(West and Simao are controlling persons of SRS)**

62. The State restates and realleges the allegations contained in paragraphs 1 through 61 as if each were set forth herein in its entirety.

63. West and Simao are controlling persons of SRS.

64. As controlling persons of SRS, West and Simao are liable for all violations of West Virginia law committed by SRS and its employees and agents.

65. West and Simao have agreed with each other and worked together to operate the daily activities of SRS.

66. West and Simao agreed with each other and directed, conspired with and caused SRS to unlawfully collect debts or attempt to collect debts that are not owing in violation of the Act. W. Va. Code § 46A-2-127.

67. Moreover, Defendants are liable for each other’s acts and the acts of SRS in the their conspiracy to collect money from West Virginia consumers for debts that are not owing.

FIFTH CAUSE OF ACTION
(Repeatedly Contacting Consumers Who Do Not Owe a Debt)

68. The State restates and realleges the allegations contained in paragraphs 1 through 67 as if each were set forth herein in its entirety.

69. No debt collector shall contact or attempt to contact consumers to collect an alleged debt after the consumers have advised that they do not owe the debt, or the alleged debtor is deceased. W. Va. Code § 46A-2-125(d) and W. Va. Code § 46A-6-104.

70. SRS repeatedly contacted or attempted to contact consumers to collect alleged debts after consumers advised SRS that they did not owe the debts, or the alleged debtors were deceased, in violation of W. Va. Code § 46A-2-125(d) and W. Va. Code § 46A-6-104.

PRAYER FOR RELIEF

WHEREFORE, The State of West Virginia requests that this Court:

- A. Conduct a hearing on this matter as soon as possible pursuant to W. Va. Code § 46A-7-110.
- B. Grant an immediate preliminary injunction:
 - 1. Enjoining Defendants from collecting or attempting to collect any debt in West Virginia;
 - 2. Ordering Defendants to notify all consumer reporting agencies to which they reported any information about debts allegedly owed by West Virginia consumers to delete this information from consumers' credit records;
 - 3. Ordering Defendants to provide the State the names, addresses and telephone numbers of West Virginia consumers from whom they have collected or attempted to collect debts alleged to be owing; and

4. Ordering Defendants to provide all contact information they have for any original creditor whose original claim the Defendants are collecting or attempting to collect from West Virginia consumers.

C. Upon final hearing:

1. Enter an Order PERMANENTLY ENJOINING and RESTRAINING SRS, West, Simao, their officers, directors, managers, agents, employees, servants, independent contractors, successors, assigns, and transferees from engaging in unfair or deceptive acts or practices in violation of W. Va. Code § 46A-1-101 *et seq.*;
2. Enter an Order PERMANENTLY ENJOINING and RESTRAINING SRS, West and Simao from engaging in unlawful debt collection practices in violation of W. Va. Code § 46A-6-104 in general and, specifically, from engaging in unfair or deceptive acts or practices in violation of W. Va. Code §§ 46A-2-125 and -127, and W. Va. Code § 47-16-1 *et seq.*;
3. Enter an Order finding West and Simao are controlling persons of SRS and liable for all violations of West Virginia law committed by SRS or its employees or agents;
4. Enter an Order finding that the Defendants consciously conspired and deliberately pursued a common plan or design;
5. Enter judgment against SRS, West and Simao, jointly and severally, and Order them to pay restitution to West Virginia consumers for all money paid to Defendants;
6. Enter judgment against SRS, West and Simao, jointly and severally and Order them to disgorge all money paid to them, by West Virginia consumers;
7. Enter judgment against SRS, West and Simao and Order them to refund all excess charges that they collected from West Virginia consumers pursuant to W. Va. Code

§ 46A-7-111, and pay a separate civil penalty to each aggrieved consumer the amount of 10 times the excess charge collected by Defendants pursuant to W. Va. Code § 46A-7-111(1);

8. Enter judgment against and Order Defendants, jointly and severally, to pay to the State of West Virginia all its attorneys' fees, court costs, investigation costs, and all other costs associated with the investigation and maintenance and prosecution of this action;

9. Enter judgment against and Order SRS, West and Simao to each pay a civil penalty in the amount of Five Thousand Dollars (\$5,000.00) for each and every willful and repeated violation of chapter 46A of the West Virginia Code that they committed, as provided in W. Va. Code § 46A-7-111(2); and

10. Grant such other and further relief as the Court deems just and appropriate.

Respectfully submitted:

STATE OF WEST VIRGINIA, ex rel.
PATRICK MORRISEY,
ATTORNEY GENERAL

By Counsel



Douglas L. Davis, WV Bar No. 5502
Office of the Attorney General of West Virginia
Consumer Protection/Antitrust Division
Post Office Box 1789
Charleston, West Virginia 25326-1789
Telephone: (304) 558-8986
Facsimile: (304) 558-0184
douglas.l.davis@wvago.gov

Simple Recovery Solutions, LLC

P.O. Box 4429

Orlando, FL 32802-4429

07/24/2014



SRS Reference ID: 24132

Account Manager Ext:

Original Provider: All In One Services

*Total Balance Due: \$373.39

ADDRESS SERVICE REQUESTED

Attn:

Your balance listed above, originating from a Third Party Financial Service Company, has been assigned for collections. In order to prevent further escalation on your account, you must submit payment immediately or call our office today to negotiate a settlement amount in order to resolve your past due balance. You may not have intentionally neglected this obligation, and we understand how this may have been overlooked, however this matter requires your prompt attention. If you would like to make a payment please mail it to:

P.O. Box 4429 Orlando, FL 32802-4429

If you are unsure whether your payment will be received in a timely manner, you may contact our Administrative Department to obtain instructions for express mailing funds, paying with credit card or check by phone. When contacting our offices, please provide your **SRS Reference ID Number**.

Unless you notify our office, in writing, within 30 days from receiving this letter stating that you dispute the validity of this debt or any portion thereof, our office will consider the debt valid. If you do notify our office in writing within 30 days after receiving this letter, our office will obtain verification of the fore-said debt or provide a judgement copy.

If you have any questions, or would like additional information regarding available compromise opportunities on your delinquent account, please contact our office at **(800) 624-0402** during our normal business hours; Monday - Thursday 11am to 7pm, Friday 10am to 6pm, Saturday & Sunday - Closed. (EST)

***NOTE:** Your account may be accruing interest on a daily basis, please contact our office for an exact payoff amount.

Please direct disputes or other correspondence regarding your account to:
SRS ADMINISTRATIVE UNIT, P.O. Box 4429 Orlando, FL 32802-4429

SR-CcFL.#001

PAYMENT METHODS

Online - Secure Web Payments: www.SimpleRecoverySolutions.com / "Make Payment"

Call In - Debit, Credit, Pre-Paid Card

Mail In - Cashiers Check, Certified Check or Money Order

This letter is from a debt collector in attempt to collect a debt. Any information obtained will be used for that purpose.

Simple Recovery Solutions, LLC | P.O. Box 4429 Orlando, FL 32802-4429
| Toll Free: (800) 624-0402 | Fax: (888) 668-7538 | Email: info@simplerecoveryolutions.com |

**EXHIBIT
A**

VERIFICATION

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, TO-WIT:

I, DOUGLAS L. DAVIS, ASSISTANT ATTORNEY GENERAL, being duly sworn, depose and say that I am the counsel of record for the Plaintiff in the Complaint and Petition for Preliminary and Permanent Injunction in the foregoing styled civil action; that I am familiar with the contents of the foregoing Complaint and Petition for Preliminary and Permanent Injunction; and that the facts and allegations contained therein are true, except such as are therein stated upon information and belief, and that as to such allegations I believe them to be true.



DOUGLAS L. DAVIS (WV State Bar # 5502)
ASSISTANT ATTORNEY GENERAL
Consumer Protection Division and
Antitrust Division

Taken, subscribed, and sworn to before me in the County and State aforesaid this 13th day of May, 2015.

My commission expires April 13, 2020.



NOTARY PUBLIC

